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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2013-73

**CYNTHIA LOUISE AMEN
1711 Third Street
Eureka, CA 95501**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Registered Nurse License No. 535528

RESPONDENT

FINDINGS OF FACT

1. On or about July 24, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2013-73 against Cynthia Louise Amen (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about August 18, 1997, the Board of Registered Nursing (Board) issued Registered Nurse License No. 535528 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2013, unless renewed.

3. On or about July 30, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2013-73, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

1711 Third Street

Eureka, CA 95501.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about August 8, 2012, the signed Certified Mail Receipt was returned to our
5 office indicating a delivery.

6 6. Business and Professions Code section 2764 states:

7 The lapsing or suspension of a license by operation of law or by order or decision of
8 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
9 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
10 against such license, or to render a decision suspending or revoking such license.

11 7. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
13 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
14 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
15 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

16 8. Respondent failed to file a Notice of Defense within 15 days after service of
17 the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation
18 No. 2013-73.

19 9. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
21 agency may take action based upon the respondent's express admissions or upon other evidence
22 and affidavits may be used as evidence without any notice to respondent.

23 10. Pursuant to its authority under Government Code section 11520, the Board after
24 having reviewed the proof of service dated July 30, 2012, signed by Kami Pratab, finds
25 Respondent is in default. The Board will take action without further hearing and, based on
26 Accusation No. 2013-73 and the documents contained in Default Decision Investigatory Evidence
27 Packet in this matter which includes:

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- 1 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2013-73,
2 Statement to Respondent, Notice of Defense (two blank copies), Request
3 for Discovery and Discovery Statutes (Government Code sections
4 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
5 receipt or copy of returned mail envelopes;
- 6 Exhibit 2: License History Certification for Cynthia Louise Amen, Registered Nurse
7 License No. 535528;
- 8 Exhibit 3: Court Records;
- 9 Exhibit 4: Affidavit of Kami Pratab;
- 10 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
11 Case No. 2013-73.

12 The Board finds that the charges and allegations in Accusation No. 2013-73 are separately and
13 severally true and correct by clear and convincing evidence.

14 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
15 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
16 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
17 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
18 \$1,455.00 as of August 30, 2012.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Cynthia Louise Amen has
21 subjected her following license(s) to discipline:

22 a. Registered Nurse License No. 535528

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Board of Registered Nursing is authorized to revoke Respondent's license(s)
25 based upon the following violations alleged in the Accusation, which are supported by the
26 evidence contained in the Default Decision Investigatory Evidence Packet in this case.

27 a. Violation of Business and Professions Code section 2761(a) - Unprofessional
28 Conduct.

- 1 b. Violation of Business and Professions Code section 2761(f) - Conviction
2 substantially related to the qualifications, functions and duties of a
3 registered nurse.
4 c. Violation of Business and Professions Code section 2762(b) - Use of controlled
5 substance or alcohol to an extent or in a manner dangerous or injurious to
6 oneself and others.
7 d. Violation of Business and Professions Code section 2762(c) - Criminal
8 conviction involving alcoholic beverages or controlled substances.

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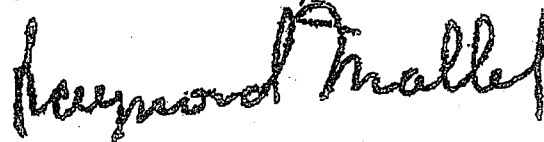
ORDER

IT IS SO ORDERED that Registered Nurse License No. 535528, heretofore issued to Respondent Cynthia Louise Amen, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 14, 2013.

It is so ORDERED December 14, 2012



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2013-73

Exhibit A

Accusation No. 2013-73

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
Deputy Attorney General
4 State Bar No. 162030
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5604
6 Facsimile: (415) 703-5480
E-mail: Judith.Loach@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-73**

13 **CYNTHIA LOUISE AMEN**
1711 Third Street
Eureka, CA 95501

ACCUSATION

14 **Registered Nurse License No. 535528**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 18, 1997, the Board of Registered Nursing issued Registered
23 Nurse License Number 535528 to Cynthia Louise Amen ("Respondent"). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on March 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"),
Département of Consumer Affairs, under the authority of the following laws. All section
references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
part, that the Board may discipline any licensee, including a licensee holding a temporary or an
inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
licensee or to render a decision imposing discipline on the license.

6. Section 118, subdivision (b), of the Code provides that the
suspension/expiration/surrender/cancellation of a license shall not deprive the
Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
within which the license may be renewed, restored, reissued or reinstated.

DISCIPLINARY STATUTES

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an
application for a certificate or license for any of the following:

"(a) Unprofessional conduct

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications,
functions, and duties of a registered nurse, in which event the record of the conviction shall be
conclusive evidence thereof."

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1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Criminal Conviction)

3 11. Respondent is subject to disciplinary action under sections 2761, subdivisions (a) and
4 (f), 2762, subdivision (c), and/or 490 in that on or about January 31, 2012, in a criminal
5 proceeding entitled *The People of the State of California v. Cynthia Louise Amen*, Humboldt
6 County Superior Court, Case Number CR1105343, Respondent pled guilty to a violation of
7 Vehicle Code section 23152(a) [driving while under the influence of alcohol and/or drugs], a
8 misdemeanor. Respondent was sentenced to three (3) years probation, ordered to serve two (2)
9 days in the county jail, pay fines in the amount of \$2,031.00, and to attend a First Offender DUI
10 Program. The facts in support of this conviction are as follows:

11 a. On November 12, 2011, at approximately 9:45 p.m., the California Highway Patrol
12 was dispatched to the scene of an automobile that had been driven off the road and was located
13 partially down a ditch. The officer made contact with the Respondent, who admitted to being the
14 driver of the vehicle. She was unaware of how her vehicle had ended in the ditch, but admitted
15 that she probably had too much to drink.

16 b. The arresting CHP officer noted the objective signs of intoxication including
17 red/watery eyes, nystagmus and slurred speech. Due to Respondent's unsteady condition,
18 additional field sobriety tests were not conducted at the scene. A breath test revealed that her
19 blood alcohol levels were .19 and .20 percent.

20 SECOND CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct – Use of Alcohol in a Dangerous Manner)

22 12. Respondent is subject to disciplinary action under sections 2761, subdivision (a) and
23 2762, subdivision (b), in that on or about November 12, 2011, she was arrested in Humboldt
24 County, after her vehicle had driven off the road and into a ditch. Respondent displayed the
25 objective signs of alcohol intoxication and had a blood alcohol level of .19 and .20 percent.

26 PRAYER

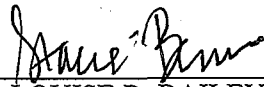
27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1 1. Revoking or suspending Registered Nurse License Number 535528, issued to Cynthia
2 Louise Amen;

3 2. Ordering Cynthia Louise Amen to pay the Board of Registered Nursing the
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
5 Professions Code section 125.3;

6 3. Taking such other and further action as deemed necessary and proper.

7
8 DATED: 7/24/2012

for 
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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